

Central Intelligence Agency



Washington, D.C. 20505

OCA FILE Leg  
RECPT # Chrono

OCA 86-2988

08 SEP 1986

Mr. James Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request of 7 August for the views of the Central Intelligence Agency (CIA) on a proposed amendment to H.R. 4151 by Congressman Jeffords that would repeal the requirement in various statutes, including the Central Intelligence Agency Retirement Disability System (CIARDS), mandating retirement at certain specified ages. The proposal is contained in a letter from Congressman Jeffords to the Office of Personnel Management (OPM). The CIA opposes this amendment for the reasons stated below, and we recommend that OPM inform Congressman Jeffords that enactment of his amendment would be contrary to Administration policy.

Elimination of the mandatory retirement features of CIARDS would significantly impair the Agency's ability to maintain the young and vigorous work force needed to carry out the mentally and physically arduous and stressful tasks inherent in the intelligence mission. The need for a young work force is illustrated by the fact that after age 50 nearly half of our employees are not eligible for full service medical clearances. Were we to include those who cannot travel due to family medical constraints, the figure would be even higher. Thus, the personnel management flexibility afforded to the Director of Central Intelligence by the mandatory retirement provisions of CIARDS is an essential tool in ensuring that the Agency's overseas cadre is composed of those people who can best carry out the intelligence mission.

Congressional recognition of the need to maintain a young and vigorous intelligence cadre was reflected in the recent amendment to the CIA Retirement Act, which applies to post-1983 "CIARDS-type" employees under the new Federal Employees' Retirement System (FERS), the same mandatory retirement provisions as apply to pre-1984 CIARDS employees. Furthermore, it must be noted that the preferential retirement annuity computation rates for "old" and "new" CIARDS participants are premised on, and reflect the necessity for, earlier retirement whether voluntary (i.e., with the Director's consent) or mandatory (i.e., at the Director's direction), for those employees who perform the demanding duties required to earn designation as a CIARDS (or Federal Retirement System special category) participant.

Because the repeal of the mandatory retirement features of CIARDS would have a substantial adverse impact on the Agency's personnel system, we would urge that any response to Congressman Jeffords by OPM be fully coordinated with the Agency. If you have any further questions regarding our position on this matter, please contact [redacted]

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Sincerely,

/s/ David D. Gries

David D. Gries  
Director of Congressional Affairs

Distribution:

Original - Addressee

1 - D/OP

1 - D/OCA

1 - ExO/OCA

1 - OCA Registry (Ref/Action #OCA86-2804)

1 - [redacted] Signer

1 - OCA/Leg/Subject File: Retirement

OCA/Leg, [redacted] (5 September 1986)

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Action  
OCA 2804-86

# OFFICE OF CONGRESSIONAL AFFAIRS

## Routing Slip

	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	X	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
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9. FOIA Officer		
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12.		

SUSPENSE

29 Aug 86  
Date

Action Officer:

Remarks:

*Action completed 8 SEPT 86*

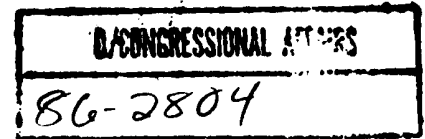
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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503



August 7, 1986

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

Department of Defense  
Department of the Interior (Park Police)  
Department of Justice  
Department of Labor  
Department of State  
Department of Transportation (FAA)  
Department of the Treasury (Secret Service)  
Central Intelligence Agency  
Equal Employment Opportunity Commission

SUBJECT: Attached letter from Congressman Jeffords to OPM, indicating his intent to seek repeal of statutory mandatory early retirement provisions affecting Federal employees during House floor action on H.R. 4154.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Friday, August 29, 1986. The Education and Labor Committee report on H.R. 4154 is expected to be filed next week. The bill will come up on the floor after the August recess.

Questions should be referred to Elaine Rideout (395-6156), or to Hilda Schreiber (395-7362), the legislative analyst in this office.

*Naomi R. Sweeney*  
Naomi R. Sweeney for  
Assistant Director for  
Legislative Reference

Enclosures

08/05/86

14:37

OPM - REG'L OPNS

NO. 011

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## TELEPHONES:

MAJORITY—(202) 225-4227  
MINORITY—(202) 225-3725

July 28, 1986

Ms. Constance Horner  
Director  
Office of Personnel Management  
Room 5, H09  
1900 E Street, N.W.  
Washington, D.C. 20415

Dear Ms. Horner:

On July 24 the House of Representatives' Committee on Education and Labor "marked up" H.R. 4154. This bill will remove the upper age limit under the Age Discrimination in Employment Act (ADEA), 29 U.S.C. 621 et seq. As now in force, the ADEA prohibits discrimination in employment on the basis of age for workers between ages 40 and 70. Thus, a worker cannot be mandatorily retired on the basis of age prior to age 70.

When the ADEA was originally enacted, it applied to workers up to 65 years old. In 1978 Congress amended the statute, raising the age ceiling from 65 to 70 for most non-Federal workers. The section of the statute dealing with Federal workers, 29 U.S.C. 633a, was also amended. The upper age cap was entirely eliminated for most Federal workers, and the ADEA now generally forbids mandatory retirement of Federal workers on account of age.

Unaffected by the 1978 amendments were statutes that mandate retirement at various specified ages for a number of Federal workers. For example, 5 U.S.C. 8335(a) calls for retirement of air traffic controllers at age 56, and 5 U.S.C. 8335(b) generally requires Federal law enforcement officers and firefighters to retire at age 55.

In the course of consideration of H.R. 4154 by the Education and Labor Committee, I offered an amendment to the ADEA's provisions concerning Federal workers. I proposed to add the words "Notwithstanding any other provision of Federal law relating to any mandatory retirement requirement. . . ." at the beginning of 29 U.S.C. 633a. It was my intention that this language would override Federal mandatory retirement provisions

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OPM - REG'L OPNS

NO. 011

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Ms. Constance Horner  
July 28, 1986  
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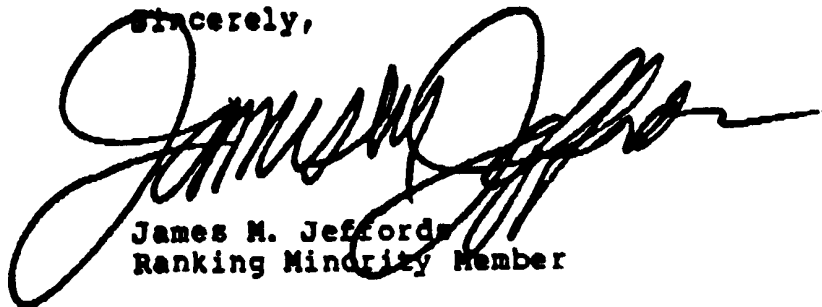
like those in the preceding paragraph and make all Federal employees in the executive branch (together with judicial and legislative branch employees who are in the competitive service) subject to the protections of the ADEA.

For procedural reasons the Committee did not consider my amendment; however, I intend to offer the same amendment when this measure is considered on the Floor of the House. In conjunction with this effort, I would appreciate your providing me some technical assistance. Specifically, I would like to have a list of the positions in the executive branch subject to mandatory retirement (with references to the statutes or regulations requiring retirement), the age at which retirement is required for each position, and the approximate number of people who serve in each position. If there are any positions in the competitive service in the judicial or legislative branches for which retirement is mandated, I would like to have the same information with respect to these positions. Lastly, I would like to know what, if any, adjustments in Federal personnel and retirement policies might have to be made if my amendment were adopted.

H.R. 4154 may be taken up on the Floor of the House in the near future, so I would appreciate receiving your response to this request as soon as possible. If you have any questions about it, please contact Jeff Fox at 225-7101 or Mark Powden at 225-3725.

Thank you for your assistance.

Sincerely,



James M. Jeffords  
Ranking Minority Member

cc: Hon. Augustus Hawkins,  
Chairman, Committee on Education and Labor